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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 7th December, 2007:—

BILL No. 99 OF 2007

A Bill to provide for the constitution of an Authority for Advance Rulings on Central Taxes as a substitute of the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 and the Authority for Advance Rulings (Central Excise, Customs and Service Tax) constituted under section 28F of the Customs Act, 1962, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Authority for Advance Rulings on Central Taxes Act, 2007.

(2) It extends to the whole of India.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date with effect from which the Authority is constituted under section 3;

(b) "Authority" means the Authority constituted under section 3;

(c) "Central taxes" means taxes or duties levied or collected under the Central Excise Act, 1944, the Income-tax Act, 1961, the Customs Act, 1962, the Customs Tariff Act, 1975, Chapter V of the Finance Act, 1994, and taxes or duties chargeable under any other law for the time being in force in the same manner as taxes or duties under any of the said Acts, as the case may be;

1 of 1944.
43 of 1961.
52 of 1962.
51 of 1975.
32 of 1994.

(d) "Chairperson" means the Chairperson of the Authority;

(e) "Member" means a Member of the Authority and includes the Chairperson;

(f) "prescribed" means prescribed by rules.

CHAPTER II

AUTHORITY FOR ADVANCE RULINGS ON CENTRAL TAXES

Constitution of Authority.

3. The Central Government shall, by notification in the Official Gazette, constitute an Authority for giving advance rulings on Central taxes, to be called as the Authority for Advance Rulings on Central Taxes.

Composition of Authority.

4. The Authority shall consist of the following Members appointed by the Central Government, namely:—

(a) a Chairperson, who is a retired Judge of the Supreme Court;

(b) an officer of the Indian Revenue Service, who is, or has been, or is qualified to be, a Member of the Central Board of Direct Taxes;

(c) an officer of the Indian Revenue Service (Customs and Central Excise), who is, or has been, or is qualified to be, a Member of the Central Board of Excise and Customs;

(d) an officer of the Indian Legal Service, who is, or has been, or is qualified to be, an Additional Secretary to the Government of India:

Provided that for giving advance rulings—

(i) under the Income-tax Act, 1961, the Authority shall exclude the Member under clause (c); and

43 of 1961.

(ii) under the Acts other than the Income-tax Act, 1961, the Authority shall exclude the Member under clause (b).

43 of 1961.

Term of office of Members.

5. The Chairperson or other Member shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

(a) in the case of the Chairperson, the age of seventy years; and

(b) in the case of any other Member, the age of sixty-five years,

whichever is earlier.

Salary, allowances, pension and other conditions of service of Members.

6. The salary, allowances and pension payable to, and other conditions of service of, the Members shall be such, as may be prescribed by the Central Government.

Vacancies, etc., not to invalidate proceedings.

7. No proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

1 of 1944.
43 of 1961.
52 of 1962.
32 of 1994.

8. (1) The Authority shall exercise such powers and discharge such functions, as have been conferred on it under the Central Excise Act, 1944, the Income-tax Act, 1961, the Customs Act, 1962, the Finance Act, 1994, this Act, or any other Act.

Powers and functions of Authority.

(2) The Authority shall, for the purposes of exercising its powers regarding discovery and inspection, summoning and enforcing the attendance of any person and examining him on oath, issuing commissions for the examination of witnesses or documents, compelling production of books of accounts, other records and documents, have all the powers of a civil court under the Code of Civil Procedure, 1908.

5 of 1908.

9. Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code, and the Authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

Proceedings before Authority to be judicial proceedings.

10. The Authority shall have power to regulate its own procedure in all matters arising out of the exercise of its powers.

Procedure of Authority.

11. The Central Government shall, in consultation with the Authority, provide the Authority with such officers and staff, as may be necessary, for the exercise of the powers and discharge of the functions of the Authority.

Staff of Authority.

12. The office of the Authority shall be located in Delhi.

Location of Authority.

CHAPTER III

MISCELLANEOUS

43 of 1961.
52 of 1962.

13. (1) On and from the appointed day, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 and the Authority for Advance Rulings (Central Excise, Customs and Service Tax) constituted under section 28F of the Customs Act, 1962 shall stand abolished.

Abolition of existing Authorities.

(2) The Chairperson and other Members of the Authorities under sub-section (1) shall be deemed to be the Chairperson and other Members of the Authority constituted under section 3 for the remainder of their respective tenures in the Authorities abolished.

(3) The officers and other employees of the Authorities under sub-section (1), appointed to the sanctioned posts, shall be deemed to be the officers and other employees of the Authority constituted under section 3.

43 of 1961.
74 of 1956.
52 of 1962.

14. Every application or other proceeding pending before the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961, functioning as such and as the Central Sales Tax Appellate Authority under sub-section (1) of section 24 of the Central Sales Tax Act, 1956, and the Authority for Advance Rulings (Central Excise, Customs and Service Tax) constituted under section 28F of the Customs Act, 1962, shall stand transferred to the Authority on the appointed day.

Transfer of pending cases.

15. No suit, prosecution or other legal proceedings shall lie against the Authority, or against the Chairperson or other Member, or any other person authorised by any of them for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Protection of action taken in good faith.

16. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for salary, allowances and pension payable to, and other conditions of service of, the Members under section 6.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,

both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

CHAPTER IV

AMENDMENT OF CERTAIN ENACTMENTS

Amendment
of Central
Excise Act,
1944.

18. In the Central Excise Act, 1944,—

1 of 1944.

(a) in section 23A, for clause (e), the following clause shall be substituted, namely:—

'(e) "Authority" means the Authority constituted under section 3 of the Authority for Advance Rulings on Central Taxes Act, 2007;';

(b) sections 23B, 23G and 23H shall be omitted.

Amendment
of Central
Sales Tax Act,
1956.

19. In the Central Sales Tax Act, 1956,—

74 of 1956.

(a) in section 19, for sub-section (2A), the following sub-section shall be substituted, namely:—

"(2A) Notwithstanding anything contained in sub-section (2), the Chairperson or a Member holding a post as such in the Authority for Advance Rulings on Central Taxes appointed under clause (a) or clause (d), as the case may be, of section 4 of the Authority for Advance Rulings on Central Taxes Act, 2007 may, in addition to his being the Chairperson or a Member of that Authority, be appointed as the Chairman or a Member, as the case may be, of the Authority under this Act.";

(b) in section 24,—

(i) in sub-section (1), for the words, figures and letter "the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961", the words and figures "the Authority for Advance Rulings on Central Taxes constituted under section 3 of the Authority for Advance Rulings on Central Taxes Act, 2007" shall be substituted;

43 of 1961.

(ii) in sub-section (2), for the words "the Authority for Advance Rulings", the words "the Authority for Advance Rulings on Central Taxes" shall be substituted.

Amendment
of Income-
tax Act,
1961.

20. In the Income-tax Act, 1961,—

43 of 1961.

(a) in section 153, in sub-section (3), in *Explanation 1*, for the words "Authority for Advance Rulings", at both the places where they occur, the words "Authority for Advance Rulings on Central Taxes" shall be substituted;

(b) in section 153B, in sub-section (1), in *Explanation*, for the words "Authority for Advance Rulings", at both the places where they occur, the words "Authority for Advance Rulings on Central Taxes" shall be substituted;

(c) in section 245N,—

(i) for clause (d), the following clause shall be substituted, namely:—

'(d) "Authority" means the Authority constituted under section 3 of the Authority for Advance Rulings on Central Taxes Act, 2007;';

(ii) clauses (e) and (f) shall be omitted;

(d) sections 245-O, 245P, 245U and 245V shall be omitted.

52 of 1962.

21. In the Customs Act, 1962,—

(a) in section 28E,—

(i) for clause (e), the following clause shall be substituted, namely:—

'(e) "Authority" means the Authority constituted under section 3 of the Authority for Advance Rulings on Central Taxes Act, 2007;';

(ii) clauses (f) and (g) shall be omitted;

(b) sections 28F, 28G, 28L and 28M shall be omitted.

Amendment of
Customs Act,
1962.

32 of 1994.

22. In the Finance Act, 1994, in Chapter VA,—

(a) in section 96A, for clause (d), the following clause shall be substituted, namely:—

'(d) "Authority" means the Authority constituted under section 3 of the Authority for Advance Rulings on Central Taxes Act, 2007;';

(b) sections 96B, 96G and 96H shall be omitted.

Amendment of
Chapter VA of
Finance Act,
1994.

STATEMENT OF OBJECTS AND REASONS

At present, there are two Authorities for Advance Rulings, one constituted under section 245-O of the Income-tax Act, 1961, which has, under section 24 of the Central Sales Tax Act, 1956, also been notified as the Central Sales Tax Appellate Authority, and the other constituted under section 28F of the Customs Act, 1962, which is also an Authority for Advance Rulings under the Central Excise Act, 1944 and the Finance Act, 1994 for purposes of Service Tax. These Authorities called as "Authority for Advance Rulings (Income Tax)" and "Authority for Advance Rulings (Central Excise, Customs and Service Tax)", have been established to enable applicants to obtain, in advance, binding rulings from the said Authorities on issues which may arise in the determination of their tax liabilities.

2. While reviewing the performance of the said Authorities on Advance Rulings, it was noticed that these Authorities did not have adequate work to justify separate Authorities with separate establishments. A decision was, therefore, taken to constitute a common Authority for Advance Rulings for performing the functions of these Authorities. For this purpose, it is necessary to enact a separate legislation. Hence, the Authority for Advance Rulings on Central Taxes Bill, 2007, for constituting an Authority for Advance Rulings on Central Taxes. Consequential amendments to the relevant provisions of the Income-tax Act, 1961, the Customs Act, 1962, the Central Excise Act, 1944, the Central Sales Tax Act, 1956 and the Finance Act, 1994 are also sought to be done through the Bill.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 30th November, 2007.

P. CHIDAMBARAM.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 29/5/2005-Ad.IC, dated the 3rd December, 2007 from Shri P. Chidambaram, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Authority for Advance Rulings on Central Taxes Bill, 2007, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the above Bill in Lok Sabha.

FINANCIAL MEMORANDUM

The Authority for Advance Rulings on Central Taxes Bill, 2007, seeks to provide for the constitution of the Authority for Advance Rulings on Central Taxes consisting of a Chairperson and three Members. As the Authority will be in lieu of the existing Authority for Advance Rulings (Income Tax) and Authority for Advance Rulings (Central Excise, Customs and Service Tax), each consisting of a Chairperson and two Members, there will be no extra expenditure in constituting the Authority for Advance Rulings on Central Taxes and its supporting staff.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 16 of the Authority for Advance Rulings on Central Taxes Bill, 2007, seeks to empower the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the said Bill. Sub-clause (2) of the said clause specifies that such rules may be made for salary, allowances and pension payable to and other conditions of service of the Members, which includes the Chairperson.

2. The rules made by the Central Government shall be laid, as soon as may be after they are made, before each House of Parliament.

3. The matters in respect of which the rules may be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

P. D. T. ACHARY,
Secretary-General.